

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOHNNY WHITE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:23-cv-00445-SRC
	)	
AYUSH ONE LLC,	)	
	)	
Defendant.	)	

**Memorandum and Order**

Plaintiff Johnny White moves for leave to proceed in forma pauperis. Doc. 2. Having reviewed the financial affidavit, the Court has determined that White cannot pay the filing fee and therefore grants the motion. *See* 28 U.S.C. § 1915(a).

Should this action lead to a monetary settlement or award—including a monetary settlement or award of only fees or costs—in an amount equal to or greater than the filing fee, White must, within fifteen days of the receipt of the settlement or award, reimburse the filing fee to the Clerk of Court. *See, e.g., White v. Zeigler Enterprises, Inc.*, No. 4:23-CV-00318-MTS, 2023 WL 2496888, at \*1 (E.D. Mo. Mar. 14, 2023); *James v. City of New York*, 1:15-cv-01161-VMS, 2015 WL 1285979, at \*3 (E.D.N.Y. Mar. 20, 2015); *Summerlot v. Astrue*, 3:08-cv-00437-CAN, 2008 WL 4493303, at \*2 (N.D. Ind. Oct. 1, 2008); *Allen v. Kelley*, 3:91-cv-01635-VRW, 1995 WL 396860, at \*1 (N.D. Cal. June 29, 1995).

The Court declines to order the United States Marshals Service to effect service on Defendant Ayush One LLC. Instead, the Court specially appoints White’s counsel, Ms. Amy


Ashbrook, as an officer of the Court, to effect service.<sup>1</sup> Section 1915(d) of Title 28 states that, in cases where plaintiffs proceed in forma pauperis, “[t]he officers of the court shall issue and serve all process.” 28 U.S.C. § 1915(d) (emphasis added). And an attorney is “an officer of the court.” *Maracich v. Spears*, 133 S. Ct. 2191, 2201–02 (2013) (describing an attorney as an officer of the court in the context of the attorney’s “professional responsibilities” and the “proper conduct of litigation”). Further, Rule 4 of the Federal Rules of Civil Procedure states that “[a]t the plaintiff’s request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 . . . .” Fed. R. Civ. P. 4(c)(3); *see also James*, 2015 WL 1285979, at \*2–3.

Accordingly, the Court grants White’s [2] motion for leave to proceed in forma pauperis.

The Court further orders that that if this action leads to a monetary settlement or award, including a monetary settlement or award only of fees or costs, in an amount equal to or greater than the filing fee, Plaintiff must, within **fifteen days** of the receipt of the settlement or award, reimburse the filing fee to the Clerk of Court.

The Court finally appoints Ms. Ashbrook to effect service in this case.

So Ordered this 1st day of May 2023.

  
STEPHEN R. CLARK  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Ms. Ashbrook may hire a process server, but she may not bill the costs to White unless he receives a monetary settlement or award that, after repayment of the filing fee, is equal to or greater than the cost of the process server. To the extent the process server’s fee will be billed to White, it must be included as a condition of any settlement agreement.